

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**Writ Petition (C) No. 1747 of 2020**

Adim Jati Sewa Sahakari Samiti Maryadit Bande Registration No. 374, Through Its Vice President Suprakash Malik S/o Shri Lalit Mohan Mallik, Aged About 35 Years, R/o Village And Post Bande, Thana And Tahsil Bande, District North Baster, Kanker Chhattisgarh

**---- Petitioner**

**Versus**

1. State Of Chhattisgarh through Secretary, Co-Operative Department, Mahanadi Bhawan, Capital Complex, Atal Nagar, New Raipur, District Raipur Chhattisgarh.
2. Managing Director, Mark Fed, Chhattisgarh Raipur District Raipur Chhattisgarh
3. Collector Kanker, District North Baster Kanker Chhattisgarh
4. District Co-Operative Mark Fed Officer, Kanker, District North Baster Kanker Chhattisgarh
5. Deputy Registrar Co-Operative Society Kanker, District North Baster Kanker Chhattisgarh

**---Respondents**

For Petitioner	:	Shri Sumit Shrivastava, Advocate.
For Respondent-State	:	Shri Vivek Ranjan Tiwari, Addl. A.G.
For Respondents 2 & 4	:	Shri Ashish Surana, Advocate.

**Hon'ble Shri Justice P. Sam Koshy**

**Order on Board**

**31.08.2020**

1. The present writ petition has been filed by the petitioner alleging the inaction and arbitrariness on the part of the respondents, on one hand, in not collecting paddy within the stipulated period and at the same time, in holding the petitioner responsible for the damage and the shortage caused to the paddy collected.
2. Counsel for the petitioner submits that once when there is a specific agreement entered into between the petitioner and the respondents, it is expected that the respondents would have first adhered to the conditions stipulated in the agreement and only thereafter the respondents would have initiated appropriate action against the petitioner, if required.

3. According to the petitioner, as per the agreement, it was the duty of the respondents for taking steps in lifting paddy which has not been honoured by the respondents. The further contention of the petitioner is that he has been repeatedly approaching the respondents for early lifting of paddy taking into consideration the frequent change of climate on account of which the paddy so collected by the petitioner was getting damaged or destroyed. According to the petitioner, as per the agreement, the respondents were also supposed to get the paddy properly insured in the event of any damage that occurs, which again, whether the respondents have discharged their liability in this regard or not is not known to the petitioner.
4. The grievance, according to the petitioner, now is that on the one hand, the respondents did not timely lift the paddy because of which it was exposed to extremely weather condition resulting in damage to the paddy. The further contention of the petitioner is that for that damage to the paddy or the shortage of paddy, if any, because of climatic reasons or any other natural reasons, the petitioner cannot be saddled with the liability of damage of the same nor can the petitioner be held responsible for any criminal offence by registering of an FIR etc. According to the petitioner, he apprehending coercive measures to be taken up by the respondents as has been done against the officer bearers of other similarly placed society. Counsel for the petitioner referring to two orders passed by this Court in WPC 1417/20 & WPC 1448/20 submits that the present writ petition also be disposed of in similar terms. He further requests that let the respondents first conduct an investigation or a preliminary inquiry in respect of the alleged shortage of paddy or damage to the paddy and thereafter reach to a conclusion as to who is actually responsible for the damage or shortage so caused and only then the authority should go in for registering of an FIR, if required.
5. Counsel appearing for the respondents submit that it is only the petitioners' apprehension that an FIR would be registered without any investigation or inquiry. It is the contention of the counsel for the respondents that due care shall be taken by the respondents firstly in determining as to who is actually responsible for the damage or shortage of paddy and only thereafter an FIR would be registered, if required.

6. Given the submissions by the counsel for the respondents and the apprehension that has been made by the petitioner, this Court is of the opinion that the present writ petitions also can be disposed of in similar terms.
7. Accordingly, the present writ petition stands disposed of directing the respondents first to undertake preliminary inquiry/investigation in respect of any alleged shortage of paddy or loss caused to the respondents in the process of purchase of paddy. That in the course of inquiry, it should be found out as to whether there has been a shortage of paddy or not, there has been any damage or loss caused to the respondents or not and whether the said shortage or damage was in fact caused because of a deliberate and willful act on the part of the petitioner or any office bearers of the petitioner and only thereafter the respondents would take appropriate steps in terms of the agreement / contract entered into between the parties.
8. In the event, if there is any further dispute regarding the quantity or quality of the paddy etc., all those issues would be resolved in terms of the agreement entered into between the parties and the standards and specifications provided for the same in the agreement.

**Sd/-**  
**(P. Sam Koshy)**  
**Judge**

Jyotijha